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2013 SEP 19 AM 8:39

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
RIVERSIDE

BY: _____

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

XIAO MA,

Plaintiff,

vs.

ADRIENNE NANNETTE
BANKSTON, et al.,

Defendants.

Case No. ED CV 13-1600-UA (DUTYx)

ORDER SUMMARILY REMANDING
IMPROPERLY-REMOVED ACTION

The Court will remand this unlawful detainer action to state court summarily because defendant removed it improperly.

On September 6, 2013, defendant Adrienne Nannette Bankston, having been sued in what appears to be a routine unlawful detainer action in California Superior Court, lodged a Notice of Removal of that action to this Court, and also presented an application to proceed in forma pauperis. The Court has denied the latter application under separate cover because the action was not properly removed. To prevent the action from remaining in jurisdictional limbo, the Court issues this Order to remand the action to state court.

Simply stated, plaintiff could not have brought this action in federal court in the first place, in that defendant does not competently allege facts supplying either

1 diversity or federal question jurisdiction, and therefore removal is improper. 28
2 U.S.C. § 1441(a); *see Exxon Mobil Corp v. Allapattah Svcs., Inc.*, 545 U.S. 546,
3 563, 125 S. Ct. 2611, 162 L. Ed. 2d 502 (2005). Here, defendant has asserted both
4 federal question and diversity jurisdiction as her basis for removal. But as
5 described in more detail in the Order Denying Defendant's Request to Proceed
6 Without Prepayment of Filing Fee, because the unlawful detainer action to be
7 removed does not actually raise any federal claim, and because the amount in
8 controversy does not exceed \$75,000 and defendant does not allege diversity of
9 citizenship, there is no basis to assert either federal question or diversity
10 jurisdiction. *See* 28 U.S.C. §§ 1331, 1332, 1441.

11 Accordingly, IT IS ORDERED that: (1) this matter be REMANDED to the
12 Superior Court of California, Riverside County, 13800 Heacock Street, Building
13 D-201, Moreno Valley, CA 92553, for lack of subject matter jurisdiction pursuant
14 to 28 U.S.C. § 1447(c); (2) that the Clerk send a certified copy of this Order to the
15 state court; and (3) that the Clerk serve copies of this Order on the parties.

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18 DATED: 9/16/13



HONORABLE GEORGE H. KING
CHIEF UNITED STATES DISTRICT JUDGE